

THE HONORABLE FRANKLIN D. BURGESS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARGARET E. TURNER,

Plaintiff,

v.

EXTENDICARE HOMES, INC.;
EXTENDICARE HEALTH NETWORK,
INC.; EXTENDICARE HEALTH
SERVICES, INC.; ROD HOWE; LORI
COLDWELL; and DOES 1-10, individually
and severally,

Defendants.

No. 05-cv-05505-FDB

PROTECTIVE ORDER

Pursuant to Fed. R. Civ. P. 26(c), it is hereby ordered that:

1. Confidential Information. Any party who is required to produce documents or information in discovery in this litigation (“Producing Party”) may designate materials produced as “Confidential” pursuant to this Protective Order. All “Confidential” designations must be based on the good faith belief that the information constitutes (a) proprietary or sensitive business, personal, medical or financial information; or (b) information subject to a legally protected right of privacy.

2. Designation of Information Produced.

a. Any documents or things deemed confidential under paragraph 1 by the Producing Party shall be marked or stamped as “Confidential.”

PROTECTIVE ORDER - 1
Case No. 05-cv-05505-FDB

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4100
SEATTLE, WASHINGTON 98101-2338
206.223.7000 FAX: 206.223.7107

1 b. Stamping or making material as set forth in paragraph 2(a) shall
2 constitute certification by the Producing Party subject to Rule 26 that it reasonably believes
3 good cause exists to designate the material as Confidential pursuant to this Protective Order.

4 3. Confidential Information Restrictions. Confidential documents or the
5 information contained therein shall not be disclosed, except by the prior written consent of the
6 Producing party or pursuant to a further order of this Court, to any person other than:

7 a. The parties' attorneys of record and the attorneys' (or the attorneys' law
8 firm's) employees and associates, and the attorneys for the parties' insurance carriers.

9 b. Experts and consultants retained by the attorneys for any party solely
10 for purposes of assisting in this litigation; provided that, prior to disclosure to such expert or
11 consultant, such expert or consultant first executes the undertaking as set forth below in
12 paragraph 4.

13 c. Actual or potential deposition or trial witnesses in this action, to the
14 extent reasonably necessary to prepare the witness to testify concerning this case so long as no
15 medical information concerning any individual is disclosed.

16 d. Officers of this Court and their supporting personnel, or officers of any
17 appellate court to which any appeal may be taken or in which review is sought.

18 e. Any party or representative (including representatives of the parties
19 insurer), agent, or employee of the Receiving Party.

20 4. Undertaking. No disclosure of any Confidential documents or the information
21 contained therein shall be made to any person, specified in paragraphs 3(b) and 3(c), unless
22 the person to whom disclosure is to be made has signed, prior to any disclosure of
23 Confidential documents or the information contained therein, an undertaking in the form
24 attached as Appendix A.

25 5. Submission to Court. All Confidential documents or the information contained
26 therein, and any pleadings or paper containing Confidential documents or the information

therein, filed with this Court shall be filed in a sealed envelope marked with the name of the court, the civil number, and the title or style of this action and further with the legend:

“CONFIDENTIAL – Filed Under Seal Pursuant to Protective Order entered _____, 2005. This envelope may be opened upon order of or under the authority of the Court.”

DATED this _____ day of _____, 200__.

6. Objection to Designation/Court Discretion.

a. Any party may contest the designation of any document or information as Confidential. The parties shall confer in good faith to resolve any such disagreements. This Court shall determine any unresolved disputes using the same standards as if the Producing Party had applied for a protective order under the Federal Rules of Civil Procedure and related law.

b. The Court is not bound by any stipulations as to Confidential documents or the information contained therein, Confidential designations or filings by any party. Instead, it may review any such stipulations, designations and filings by the standards set out in the Federal Rules of Civil Procedure and the Local Rules of this Court.

7. Objections to Discovery. Nothing in this Protective Order shall preclude the parties from asserting any objection to the production of documents or information based on the attorney-client privilege, the work product doctrine, or on the grounds that the documents or information sought are not relevant or likely to lead to the discovery of admissible evidence.

8. Return. No later than thirty (30) days after the conclusion of this action, all tangible Confidential documents, and all copies of Confidential documents or any derived summaries, memoranda, or other records containing Confidential information shall be destroyed or returned to counsel for the Producing Party, provided, however, that each party's attorneys may maintain one complete copy of the Confidential documents for their office


1 files. To the extent each party's attorneys maintain a copy of the Confidential documents for
2 their office files, the Stipulated Protective Order shall remain in effect.

3 9. Producing Party's Use. Nothing in this Protective Order shall limit any party
4 or person in the use of its own documents, things, and/or information for any purpose, or from
5 disclosing any of its own information to any person, or from consenting to the disclosure of
6 any of its own information by the other party.

7 10. General Statements About the Lawsuit. Nothing in this Order prevents a Party
8 from discussing the general facts of this case or the Parties' allegations with third persons, so
9 long as the specific information designated as "Confidential" is not thereby disclosed.

10 11. Modification. This Order shall not prevent any party from later seeking to
11 modify its terms.

12 DATED this 18th day of July 2006.

13 
14 _____
15 FRANKLIN D. BURGESS
16 UNITED STATES DISTRICT JUDGE

17 Presented by:

18 LANE POWELL PC

19 By s/Sarah E. Haushild

20 Barbara J. Duffy, WSBA No. 18885
21 Sarah E. Haushild, WSBA No. 29626
22 Attorneys for Defendants Extendicare; Rod
23 Howe; and Lori Colwell

24 Approved as to Form;
25 Notice of Presentation Waived:
26

PROTECTIVE ORDER - 4
Case No. 05-cv-05505-FDB

114773.0038/1299426.1

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4100
SEATTLE, WASHINGTON 98101-2338
206.223.7000 FAX: 206.223.7107

1 STORZ & ASSOCIATES, P.C.

2
3 By s/Edwin N. Storz
4 Edwin N. Storz, WSBA No. 14161
Attorneys for Plaintiff Margaret E. Turner

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

PROTECTIVE ORDER - 5
Case No. 05-cv-05505-FDB

114773.0038/1299426.1

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4100
SEATTLE, WASHINGTON 98101-2338
206.223.7000 FAX: 206.223.7107

1 **APPENDIX A**

2 UNDERTAKING

3

4 I acknowledge that I, _____ (Name),

5 _____ (Place and Position of Employment), am about

6 to receive confidential information supplied by _____ (Party). I

7 certify that I understand that such confidential information will be provided to me pursuant to

8 the terms and restrictions of the Protective Order of _____, 2006, in

9 *Margaret E. Turner v. Extendicare Homes, Inc., et. al.*, Civil Cause No. 05-cv-05505 FDB in

10 the United States District Court for the Western District of Washington, at Tacoma. I further

11 represent that I have been given a copy of and have read that Protective Order, and that I

12 agree to be bound by all of its applicable terms. I also understand that documents and/or

13 information having a confidential designation, and all copies, summaries, notes and other

14 records that may be made regarding such documents and/or information, shall be disclosed to

15 no one other than persons qualified under the Protective Order to have access to such

16 information.

17 I understand and acknowledge that violation of this Undertaking or the Protective

18 Order may be punishable by Contempt of Court.

19

20 _____

21 DATE

20 _____

21 Signature

1 **UNITED STATES DISTRICT COURT**
2 **WESTERN DISTRICT OF WASHINGTON**

3 **CERTIFICATE OF SERVICE**

4 I, Lorrie A. Salinas, the undersigned, hereby certify on July 12, 2006, I presented
5 **PROTECTIVE ORDER** to the Clerk of the Court for filing and uploading to the CM/ECF
6 system. In accordance with their ECF registration agreement and the Court rules, the Clerk of
7 the Court will send e-mail notification of such filing to the following:

8 Edwin N. Storz
9 1111 Main Street, Suite 604
10 Vancouver, WA 98660
11 Email: storz821@cs.com

12 DATED this 12th day of July 2006.

13 s/Lorrie A. Salinas
14 Lorrie A. Salinas
15
16
17
18
19
20
21
22
23
24
25
26

PROTECTIVE ORDER - 7
Case No. 05-cv-05505-FDB

114773.0038/1299426.1

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4100
SEATTLE, WASHINGTON 98101-2338
206.223.7000 FAX: 206.223.7107